

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**TURNER INDUSTRIES, L.L.C.
AI # 26217**

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

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* **Enforcement Tracking No.**

* **AE-PP-03-0257**

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SETTLEMENT

The following Settlement is hereby agreed to between Turner Industries, L.L.C. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation who owns and/or operates the International Painting Corporation facility located at 2180 Louisiana Highway 1 in Port Allen, West Baton Rouge Parish, Louisiana ("the Facility").

II

On July 29, 2004, the Department issued a Notice of Potential Penalty, Enforcement No. AE-PP-03-0257, to Respondent, which was based upon the following findings of fact:

On or about June 20, 2003, an inspection of International Painting Corporation, owned and/or operated by Turner Industries, L.L.C. (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air

Quality Regulations. The facility is located at 2180 Louisiana Highway 1 in Port Allen, West Baton Rouge Parish, Louisiana.

While the Louisiana Department of Environmental Quality's (the Department) investigation is not yet complete, the following violations were noted during the course of the inspection:

- A. Records of emissions of VOC and toxic air pollutants (TAPs) calculated monthly and for the last twelve consecutive months were not on site at the time of the inspection. The failure to keep these records on site is a violation of Specific Condition No. 2 of Air Permit No. 3120-00062-03, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- B. A subsequent review of the above-mentioned records noted that the Respondent exceeded the maximum twelve month emission of zinc of 0.95 tons/yr. This is a violation of Specific Condition No. 2 of Air Permit No. 3120-00062-03, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

Further review of the information provided by the Respondent indicates that this was not a violation.

- C. The Respondent failed to report the zinc exceedance as listed in violation "B" above, to the Office of Environmental Compliance, Surveillance Division, as required by Specific Condition No. 2 of Air Permit No. 3120-00062-03. The failure to report as required is a violation of Specific Condition No. 2 of Air Permit No. 3120-00062-03, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

Further review of the information provided by the Respondent indicates that this was not a violation.

- D. The Respondent failed to perform daily filter vent inspections from January 2001 until June 18, 2003. The Respondent instituted a daily checklist for Emission Points 002, 003, 008, and 009 as required by the first condition listed as Specific Condition No. 5 on or about June 18, 2003. The failure to perform daily filter vent inspections is a violation of the first condition listed as Specific Condition No. 5 of Air Permit No. 3120-00062-03, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.



On or about June 14, 2004, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and Air Quality Regulations.

While the Department's investigation is not yet complete, the following violation was noted during the course of the inspection:

The Respondent failed to perform daily visual inspections on Emission Point 008, from December 2003 through June 13, 2004. The Respondent immediately began inspecting Emission Point 008, upon inspection on June 14, 2004. The failure to perform daily visual inspections on Emission Point 008 is a violation of the first condition listed as Specific Condition No. 5 of Air Permit No. 3120-00062-03, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.



III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FOUR THOUSAND THREE HUNDRED AND NO/100 DOLLARS (\$4,300.00) of which Two Hundred Seventeen and 02/100 Dollars (\$217.02) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against

Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in West Baton Rouge Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

Re: Turner Industries, L.L.C.
Enforcement No. AE-PP-03-0257
Agency Interest No. 26217

Page 2, Violation D in the above-referenced action is amended to include the following:

Further review of the information provided by the respondent indicates that IPC did perform the filter vent inspections. However, due to a clerical oversight, the inspections were not properly documented.

Paragraph 2 of the page 3 follow-up citation is also amended to include the following:

Further review of the information provided by the respondent indicates that IPC did perform the filter vent inspections. However, due to a clerical oversight, the inspections were not properly documented.

TURNER INDUSTRIES, L.L.C.

BY: Robert L. Pearson
(Signature)

ROBERT L. PEARSON
(Printed or Typed)

TITLE: PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 5TH day of
JANUARY, 20 05, at BATON ROUGE, LA.

JUDITH B. HARRIS, #50202
NOTARY PUBLIC
STATE OF LOUISIANA
PARISH OF LIVINGSTON
MY COMMISSION IS FOR LIFE
AUTHORIZED TO TRANSACT BUSINESS IN
EAST BATON ROUGE PARISH

Judith B. Harris
NOTARY PUBLIC (ID # 50202)
Judith B. Harris
(Printed or Typed)

STATE OF LOUISIANA
Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 4th day of
April, 20 05, at Baton Rouge, Louisiana.

Randall S. Beard
NOTARY PUBLIC (ID # 27771)

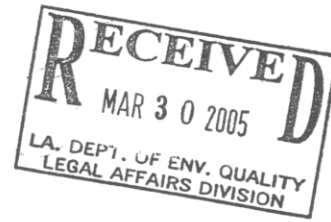
Randall S. Beard
(Printed or Typed)

Approved: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005



March 18, 2005

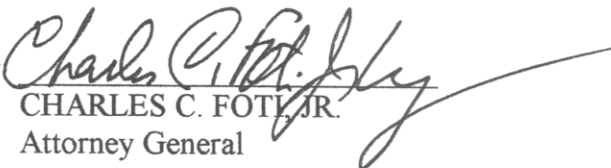
Mr. Herman Robinson, Executive Counsel
La. Department of Environmental Quality
Legal Affairs Division
P.O. Box 4302
Baton Rouge, LA 70821-4302

Re: AG Review of DEQ Settlement;
Turner Industries, L.L.C.
AE-PP-03-0257

Dear Mr. Robinson:

Pursuant to the authority granted to me by Art. IV, Sec. 8 of the state constitution and R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

By 
CHARLES C. FOTI, JR.
Attorney General

CCF/mlc